IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

CONTEMPT PETITION NO.125 OF 2004
IN
INTERIM APPLICATION NO. 210 OF 2002
IN
M.J.PETITION NO. A-1438 OF 2002

Mr.Rajendra Suresh Kothare ..Petitioner

Vs.

Mrs.Sneha Rajendra Kothare ..Respondent

....

Mr.R.T.Parekh for Petitioner

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 22,2005

P.C.:

1. Heard Mr.Parekh, the learned counsel for the petitioner-husband who had migrated along with his wife Sneha to the United States and the couple stayed there for sometime. They begot two children viz., Natasha born on 17.1.1996 and son Rohit born on 5.12.1999. It appears that subsequently, the petitioner-husband returned to the motherland whereas the wife continued to stay in New Jercy alongwith the children. She approached the superior Courts of United States Chancery Division Family Part Middlesex County seeking for divorce and also for retaining the

custody of the minor children alongwith some other consequential reliefs. The petitioner-husband approached the Family Court at Mumbai in MJ Petition No.A-1438 of 2002 and in the said proceedings the husband filed an application Exhibit-12 seeking restraining orders against the wife and the wife filed an application at Exh.19 seeking restraining orders against the husband. The learned Judge of the Family Court No.3 by her order dated 9.5.2003, was pleased to reject the application at Exh.19 and allow the application at Exh.12. The superior Court of New Jercy passed an order on 14.5.2003 and it is contended by the husband in this contempt petition that the wife wilfully disobeyed the order passed by the Family Court at Mumbai on 9.5.2003. These contentions are fallacious and far-fetched.

2. A perusal of the order dated 14.5.2003 clearly shows that the same Court was aware of the order passed by the Family Court on 9.5.2003 as the same was transmitted to the Registry of that Court by the petitioner-husband and thereafter, the superior Court at New Jercy proceeded to pass the order granting divorce as well as the custody of the minor children. This order passed by the superior Court of New Jercy on 14.5.2003 cannot amount, by any stretch of imagination, to wilful disobedience of the order passed by the Family Court on 9.5.2003, by the

respondent-wife.

3. Contempt Petition is therefore, misconceived and the same is rejected summarily.

[B.H.MARLAPALLE,J.]